CAROLINE LOUISE TRIGG
versus
PETER RICHARD HAIG TRIGG

HIGH COURT OF ZIMBABWE
CHITAKUNYE J
HARARE 13, 14, 15 February 2017 and 16 November 2017

**Matrimonial action**

*F Girach*, for the plaintiff
*E W W Morris*, for the defendant

CHITAKUNYE J: The plaintiff and the defendant were married to each other in terms of the Marriage Act [*Chapter 5:11*] at Ruwa, Harare on the 14th March 1987. Their marriage was blessed with three children who are now all adults. After a period of about 20 years of married life the parties separated in December 2007 when, due to circumstances she could not withstand anymore, the plaintiff left the matrimonial home.

On the 29th September 2008 the plaintiff sued the defendant for a decree of divorce and other ancillary relief. At that time two of the children were still minors hence she had claimed custody and maintenance for them but this has since been overtaken by events.

In her suit the plaintiff alleged that the marriage relationship between the parties has irretrievably broken down to an extent that there is no prospect of the restoration of a normal marriage relationship between them in that:-

1. The defendant has assaulted the plaintiff;
2. The defendant has frequently behaved in a threatening and abusive manner both towards the plaintiff and towards the children;
3. The defendant has frequently humiliated plaintiff in public and in private;
4. The defendant is financially irresponsible;
5. The defendant has been selfish and inconsiderate towards plaintiff and the children;
6. The defendant has treated the children with cruelty;
7. The defendant has persistently lied to the Plaintiff on important matters and has lied about plaintiff to others;

8. The defendant has persistently and prejudicially interfered with plaintiff's business;
9. The defendant has generally treated plaintiff and the children with a lack of consideration, affection and respect;
10. The parties have been living separate and apart from one another for a period exceeding 4 months and plaintiff has no intention of restoring cohabitation to defendant.

As a consequence of the above factors the plaintiff sought a decree of divorce, custody of the minor children, and maintenance for the children and an equitable distribution of assets of the spouses. The assets included: -

(a) two immovable properties namely-

(i) number 14 Brechin Drive, Marlborough, Harare (herein after referred to as the Marlborough property) registered in the plaintiff's name; and

(ii) a Flat situate in England being No. 8 Peterborough Mansions, 69 New Kings Road, Fulham, London (herein after referred to as the Flat in England) registered in the joint names of the parties;

(b) some movable properties such as household contents and motor vehicles; and

(c) shares in companies owned by the parties.

Regarding shares in companies, the plaintiff sought, *inter alia*, that each party transfer to the other such party's entire shareholding in the other party's company in Zimbabwe.

The defendant initially contended that the marriage could be salvaged. However, in the event of court granting a decree of divorce he objected to the manner suggested by the plaintiff for the distribution of the assets of the spouses.

On the 30th October 2013, at a pre-trial conference the parties agreed that:-

1. The marriage has irretrievably broken down and so a decree of divorce should be granted;
2. Each party will transfer to the other their entire shareholding in the other party's company in Zimbabwe and resign as director of the other party's company;
3. Each party will transfer to the other their entire shareholding in the other party's company in England and each party shall resign as director of the other party's said company;
4. The defendant will retain as his sole property the furniture and household contents situate in the Marlborough property subject to Plaintiff's entitlement to inspect all the said items and to remove certain small items which are personal or sentimental to her;
5. In the event that the flat in England is sold, the furniture and household contents situate therein shall be divided equally by value between the parties;

6. Plaintiff will retain all motor vehicles in her possession as the sole property of herself or her nominee, and defendant shall retain as his sole property all motor vehicles in his possession including a Toyota Surf motor vehicle conditional upon him immediately registering the said vehicle into his name.

The issue referred to trial was couched as follows:

> "Taking account of all the circumstances, what order should be made in the interests of justice and equity in respect of the flat in England and the house in Zimbabwe?"

It is apparent that the only outstanding issues pertained to a fair and equitable distribution of the two immovable properties stated therein.

When the parties appeared before me for trial their respective pleadings were amended by consent. The plaintiff's declaration was amended as per notice of amendment filed on the 12th January 2016, by deleting paragraph 9 of the declaration and substituting the same with a new paragraph whereby she now sought: -

a) To be declared the sole and absolute owner of the Marlborough property;

b) That the flat in England be sold and the plaintiff be awarded an 80% share of the net proceeds whilst defendant retains 20% share of the net proceeds;

c) That the defendant indemnify plaintiff against all and any liability arising out of the overdraft relating to the parties' joint bank account held at NatWest Bank in England.

On the 18th January 2016 the defendant filed his response to the above amendments in which he denied that such a distribution of the properties would be fair and equitable. The defendant contended that the Marlborough property should be awarded to him as his sole and absolute property and that the flat in England maybe sold with the plaintiff being awarded a 20% share of the net proceeds whilst he retained 80% share of the net proceeds.

As regards the overdraft at NatWest Bank, the defendant contended that the plaintiff should be ordered to make good the overdraft except to the extent of GBP3000.00.

The defendant's stance was also replicated in his counter claim filed on the same date.

On the 8th November 2016 the defendant filed a notice to amend both his plea and his counter claim. In this latest amendment the defendant now sought that the Marlborough property be transferred to a Trust set up for the children with the defendant being granted right of occupation and habitation free of charge until his death. As regards the Flat in England the defendant now proposed that it be held in Trust for the benefit of the children of the marriage in equal shares; that the rental garnered from the Flat be utilised for payment towards the Mortgage Bond over that property until such time as the Bond has been paid off when any

further net income accrued by way of rental would be split equally between the parties or the survivor of them until they both shall die, when the property shall pass to the children. In this latest amendment though the defendant acknowledged that the parties jointly posses a bank account in the United Kingdom which is now overdrawn to the sum of GBP13 432.38, he never suggested how the overdraft should be dealt with.

The plaintiff's response to the defendant's latest amendment was a denial that such an arrangement would be fair and equitable.

I have made reference to the various amendments by the parties to show the change of stance by the parties as the matter progressed as to how the properties in question should be dealt with. What did not change is the fact that essentially only two immovable properties remained to be decided upon.

In view of the amendments the issues for trial maybe rephrased as follows: -

Whether the properties should be held by a trust for the benefit of the children as suggested by the defendant or the properties should be distributed between the parties. If the properties are to be distributed what would be a fair and equitable distribution of the properties between the parties taking into account the circumstances of the case.

The plaintiff gave evidence and called one witness. She tendered into evidence various documents in support of her claim. The defendant thereafter gave evidence.

From the evidence adduced it is common cause that parties were agreed that the marriage has indeed irretrievably broken down and that it was only proper that a decree of divorce be granted. The plaintiff alluded to the conduct of the defendant which made the continuation of a normal marriage relationship impossible. The defendant's denial of the conduct complained of was feeble in nature and, in my view, did not show that there was life in the marriage. It is common cause that the plaintiff and the children left the matrimonial home in circumstances of virtually fleeing from the violent conduct of the defendant. Since their separation in 2007, the plaintiff and defendant have not resumed cohabitation.

It is trite that where on the trial date one party insists that the marriage has irretrievably broken down and that they no longer have any love or affection for the other, this court cannot deny such a party a decree of divorce. Marriage is about love and affection for each other. Where there is no longer any love and affection, it is only proper to dissolve the marriage. See *Kumirai* v *Kumirai* 2006(1) ZLR 134 (H).

At the dissolution of a marriage an appropriate court is empowered to deal with the property rights and interests of the spouses in terms of the law. In this regard section 7 of the Matrimonial Causes Act [*Chapter 5:13*] provides that:-

> "(1) Subject to this section, in granting a decree of divorce, judicial separation or nullity of marriage, or at any time thereafter, an appropriate court may make an order with regard to-
> **(a)** the division, apportionment or distribution of the assets of the spouses, including an order that any asset be transferred from one spouse to the other;
> (b) the payment of maintenance ,whether by way of a lump sum or by way of periodical payments, in favour of one or other of the spouses or of any child of the marriage."

The only assets excluded from being considered for apportionment or distribution are assets acquired by a spouse by inheritance, or by custom are meant to be for that spouse personally or in any manner which has sentimental value to the spouse concerned. The onus is upon a spouse claiming exclusion of any assets to show that the assets fall under the category for exclusion in terms of s 7(3) of the Act. All other assets that belong to the spouses individually or jointly must be placed on the table for consideration.

In the determination of how best to apportion or distribute the assets, court is enjoined to consider all the circumstances of the case. In this regard section 7(4) provides that:-

> (4) In making an order in terms of subsection (1) an appropriate court shall have regard to all the circumstances of the case, including the following—
> a) the income-earning capacity; assets and other financial resources which each spouse and child has or is likely to have in the foreseeable future;
> b) the financial needs, obligations and responsibilities which each spouse and child has or is likely to have in the foreseeable future;
> c) the standard of living of the family, including the manner in which any child was being educated or trained or expected to be educated or trained;
> d) the age and physical and mental condition of each spouse and child;
> e) the direct or indirect contribution made by each spouse to the family, including contributions made by looking after the home and caring for the family and any other domestic duties;
> f) the value to either of the spouses or to a child of any benefit, including a pension or gratuity, which such spouse or child will lose as a result of the dissolution of the marriage;
> g) the duration of the marriage;
> and in so doing the court shall endeavour as far as is reasonable and practicable and, having regard to their conduct , is just to do so, to place the spouses and children in the position they would have been in had a normal marriage relationship continued between the spouses."

In *Ncube* v *Ncube* 1993 (1)ZLR 39 (SC)at 42B-D in considering the meaning of the phrase "assets of the spouses" in s 7 of the Matrimonial Causes Act, KORSAH JA aptly opined that:-

> "I take the phrase 'assets of the spouses' to include all such property as a spouse was possessed of at the time of the distribution, and not only what was acquired by one or the other or both the parties during the subsistence of the marriage, save such assets which are proved to the satisfaction of the court to have been acquired by a spouse, whether before or during the marriage-
> (a) by way of inheritance; or
> (b) in terms of any custom and which, in accordance with such custom, are intended to be held by the spouse personally; or
> (c) in any manner or which have particular sentimental value to the spouse."

In *Gonye* v *Gonye* 2009(1) ZLR 232(SC) at 237B-D MALABA JA (as he then was) expounded on the above terms as follows:-

> "The terms used are the 'assets of the spouses' and not 'matrimonial property'. It is important to bear in mind the concept used, because the adoption of the concept 'matrimonial property' often leads to the erroneous view that assets acquired by one spouse before marriage or when the parties are separated should be excluded from the division, apportionment or distribution exercise. The concept 'the assets of the spouses' is clearly intended to have assets owned by the spouses individually(his or hers) or jointly(theirs) at the time of the dissolution of the marriage by the court considered when an order is made with regard to the division, apportionment or distribution of such assets."

Applying the same rationale that assets to be considered are those owned by the parties individually or jointly at the time of dissolution of the marriage , it is appropriate to say that the phrase includes assets of the spouses wherever situate.

In his initial plea the defendant contended that the Flat in England should be excluded as it is not matrimonial property and, in any case, this court has no jurisdiction over the said property as it is situated in a foreign land. In his amended plea and counter claim filed on the 18 January 2016 he now sought a specific relief to the effect that the plaintiff be awarded a 20% share of the current value of the Flat in England whilst he retains 80% share. On the 8th November 2016 the defendant amended his counter claim and now sought a relief to the effect that the English property be held in Trust for the benefit of the children of the marriage in equal shares. By seeking such specific relief in respect of the Flat in England the defendant may have realised that this court will not abdicate its responsibility to distribute the assets of the spouses wherever situate.

Despite seeking such relief, in his closing submissions defendant's counsel argued that this court should not make an order in respect of the Flat in England and the parties should instead seek their remedy in accordance with English Law in England. This was quite astonishing considering that counsel had led his client through the various options defendant had suggested

the property should be apportioned or distributed by this court which included that the property should be held in a Trust for the benefit of the children and that the plaintiff be awarded only a 20% net value of the property. That was a specific relief defendant asked this court to grant, the same court he now said had no jurisdiction to deal with the Flat in England. Surely defendant submitted to the jurisdiction of this court and consented to an order being made in respect of that property. The fact that he now realised that in the exercise of its discretion court may not grant the relief he sought is not a ground to suggest that this court has no jurisdiction to deal with that property.

As regard this court's power to deal with assets of the spouses situate in other countries, KUDYA J in *Beckford* v *Beckford* 2006 (2) ZLR 377(H) at 389D-390A stated as follows:-

> "The whole thrust of the defendant's evidence demonstrated that the plaintiff has not made full disclosure of the properties and the bank accounts and statements. He therefore sought that the court surrenders its power to determine matrimonial assets to the UK legal system, which he contended was more competent and better placed to deal with such cases.
> I may remark in passing that the cases, which he referred me to……. demonstrate that the Family Division in the UK is familiar with schemes such as the ones that the plaintiff was involved in. These courts, however, have not surrendered or abandoned their jurisdiction to determine these issues even in those cases where the evidence was unclear. ….
> The defendant took 3 years to assess her case. At one time in her interrogatories of 10 November 2005 she threatened to seek letters of request from this court to the High Court in England in terms of the English evidence(Proceedings in other Jurisdictions)Act 1975 as read with order 70 of the Rules of the Supreme Court.
> This demonstrates that the defendant appreciated that the courts in this country do not abdicate their responsibilities in favour of foreign courts, wheresoever situate and however competent they may be perceived to be.
> ……. I agree with the submission that was made by *Mr. de Bourbon* that while s 7 of the Matrimonial Causes Act gives this Court a wide discretion to divide, apportion and distribute the assets of the spouses it does not allow this court to abrogate its jurisdiction to another court."

In *casu*, this court cannot abdicate its responsibilities by not considering the flat in England in the determination of the proprietary rights of the parties. In any case, as already alluded to above, the defendant had agreed to this court's jurisdiction over that property by seeking specific relief from this court on the division, apportionment or distribution of that property. The change of heart to now seek that this court should not decide on the flat in England was without merit. The property will thus be considered together with the Marlborough property.

Distribution of the properties.

The approach to take in the distribution of assets of the spouses has been alluded to in a number of cases. In *Takafuma* v *Takafuma* 1994(2)ZLR103 (S) MCNALLY JA, after alluding to the effect of registration of rights in immovable property in terms of the Deeds Registries

Act [*Chapter 20:05*] as conveying real rights upon those in whose name the property is registered, at 106B-E opined that:-

> "The duty of a court in terms of s 7 of the Matrimonial Causes Act involves the exercise of a considerable discretion, but it is a discretion which must be exercised judicially. The court does not simply lump all the property together and then hand it out in as fair a way as possible. It must begin, I would suggest, by sorting out the property into three lots, which I will term 'his', 'hers', and 'theirs'. Then it will concentrate on the third lot marked 'theirs'. It will apportion this lot using the criteria set out in s 7(3) of the Act. Then it will allocate to the husband the items marked 'his', plus the appropriate share of the items marked 'theirs'. And the same to the wife. That is the first stage.
> Next it will look at the overall result, again applying the criteria set out in s 7(3) and consider whether the objective has been achieved, namely, 'as far as is reasonable and practicable and, having regard to their conduct, is just to do so, to place the spouses …in the position they would have been in had a normal marriage relationship continued ….'
> Only at that stage , I would suggest, should the court consider taking away from one or other of the spouses something which is actually 'his' or 'hers'."

The 'considerable discretion' to be exercised by a court was illustrated in *Gonye* v *Gonye* (*supra*) wherein at p 236H-237A MALABA JA (as he then was) aptly opined that:-

> "It is important to note that a court has an extremely wide discretion to exercise regarding the granting of an order for the division, apportionment or distribution of the assets of the spouses in divorce proceedings. Section 7(1) of the Act provides that the court may make an order with regard to the division, apportionment or distribution of 'assets of the spouses including an order that any assets be transferred from one spouse to the other.' The rights claimed by the spouses under section 7(1) of the Act are dependent upon the exercise by the court of the broad discretion."

It must always be borne in mind that the overall objective of the exercise is to place the spouses in the position they would have been in had a normal marriage relationship continued between the parties hence court is required to consider all the circumstances of the case.

In *casu,* it was common cause that the Marlborough property is registered in the names of the plaintiff whilst the Flat in England is registered in the joint names of the parties. Going by the legal effect of registration of title in immovable property, the Marlborough property is deemed to be plaintiff's (hers) whilst the flat in England is 'theirs'. In terms of the *Takafuma* v *Takafuma* (*supra*), it would entail apportion the Marlborough property to the plaintiff and then apportioning the flat in England on a 50:50 basis for a start.

The next is to consider whether such would place the spouses in the position they would have been had the marriage relationship continued and thus fair and equitable. In the circumstances of this case the further steps alluded in *Takafuma* v *Takafuma* (*supra)* were amply taken care of by the parties themselves in their evidence.

In their evidence the parties agreed that the Marlborough property though registered in the name of the plaintiff was in fact a result of their joint contributions. The registering of the property in the plaintiff's sole name was done out of fear that legislation may be passed to the effect that only citizens of Zimbabwe by birth would be able to own immovable property in their own right. As the plaintiff was born in Zimbabwe and the defendant was not born in Zimbabwe and had not yet obtained citizenship status the parties decided to have the property registered in the plaintiff's name only. Whatever instilled that fear in them is immaterial; the fact is that even plaintiff conceded that there was such a fear. It is a property that the plaintiff, though not agreeing on how much deposit was paid, stated that a small deposit was paid by the defendant's father with her father acting as guarantor by placing his own property as collateral to meet the deposit shortfall. Thereafter the mortgage payments were initially met by both parties and, thereafter, by agreement, the Defendant paid the mortgage instalments whilst the plaintiff met household expenses and school fees.

After separation, the defendant remained in the property up to this date. In the circumstances the plaintiff testified that the defendant can retain the Marlborough property whilst she is declared owner of the flat in England. She, in effect abandoned her initial claim for the Marlborough property in preference to being awarded the flat in England.

The defendant on his part contended that the Marlborough property should remain in the name of the plaintiff whilst he enjoyed usufruct rights. He also suggested both properties be held in trust for the benefit of the children with him enjoying occupation of the Marlborough property during his lifetime.

In deciding on an appropriate distribution order court is guided by the s 7(4) of the Act as already alluded to. In that regard the needs of the spouses and children and their expectations are important. The contributions, both direct and indirect, made by the parties to towards the needs of the family must equally be considered. The duration of the marriage and generally the conduct of the parties cannot be ignored.

In *casu*, the plaintiff's evidence was to the effect that she contributed immensely both before and after separation. In this regard she alluded to her working life whereby at some point she had two jobs all in a bid to earn an income for the family. The plaintiff produced extensive and detailed oral and documentary evidence of her contributions. Much of that contribution went unchallenged.

After separation the plaintiff was observed again contributing a lion's share towards the needs of the parties' children. Evidence in this regard was tendered and was mostly

unchallenged. The defendant in his evidence did not have much to challenge the plaintiff's evidence on the extent of her contribution and his own lack of contribution.

In his evidence in chief the defendant gave a pathetic picture of the business he started in 1997 and made effort to justify his failure to contribute meaningfully to the welfare of his family. At one point he was asked to comment on the plaintiff's accusation that he had not been helping the plaintiff and the children and his response was to the effect that:

> 'The assistance I could render is from the resources I did not have. My revenue lines were deeply cut which is why I went to work at Borrowable country club earning about US$100 per month.'

The defendant's excuse cannot possibly be true as he failed to produce any documents in support of his assertion. His company, Bespoke Breweries, apparently continued operating for all the time. His contention that some shareholders who had promised to provide foreign currency for the company failed to do so, was without merit as such failure did not lead to the closure of the company. He also indicated that the business was indebted to his Trust but no proof of such trust or indebtness thereto was produced. In an e-mail to the plaintiff on the 24th March 2014, the defendant indicated that the company had in fact made a net profit in the sum of US$17,255.53 for the period March to 31st December 2013 to which plaintiff respondent by stating that:-

> "Good to hear that your business is doing well and that you will shortly have medical cover for yourself – not to have this is extremely unwise and starting again at your age will mean quite high premiums. I will continue to cover the children (very upset that you call Hilary an item) .. if you are in a position to afford covering the children, please rather give that money to me to start paying back Liz, Pete and my Dad who have all taken on your responsibilities in the past few years when you did not…"

Despite the fact that the defendant acknowledged that his company was now doing well, he still did not oblige to the plaintiff's request. He still did not make up for his past failures to perform his responsibilities towards the children. I thus hold that the defendant's failure to provide for his family was not due to lack of funds.

It may also be noted that at no point did the defendant refute the various documentary evidence tendered by the plaintiff showing the extent of her contribution despite the fact that such evidence also painted a gloomy picture of his contribution to his family.

It was clear that after separation defendant virtually abdicated his responsibilities, not only financially but also emotionally towards his wife and his children. It is evident for instance that from the time his wife and children left the matrimonial home in 2007, he has never

contributed to their accommodation whilst he remained comfortably ensconced in the matrimonial home.

The manner he conducted himself towards his children led to the parties' child Emma Howard (formerly Hillary Trigg) deciding to change her name altogether. She just did not want to be associated with her father's name.

The manner in which defendant dealt with the income from the flat in England as testified to by plaintiff confirmed further that defendant just did not care for the welfare of his family. It was common cause that the flat in England was occupied by a tenant and the defendant had access to the rentals paid by the tenant. At some point he instructed the tenant to pay rentals in cash to his friend Rory Croghan and the friend would then send or utilise the money as instructed by the defendant. For at least 18 months defendant received this money but was unable to adequately account for it. In the meantime during the time he was receiving the said rentals he still could not provide for the needs of the children. Thus it was not disputed that as a result of such conduct the medical insurance cover the children had expected to rely on lapsed due to non payment and when Emma needed to undergo some medical tests over 6 months the plaintiff had to source funds for the medical tests. Not only had the defendant been irresponsible in letting the medical cover lapse but he had not informed plaintiff about the lapse of the medical insurance cover such that plaintiff discovered this when Emma was due for the medical tests.

It is in these circumstances that at the end of her evidence plaintiff stated that she no longer wanted to have anything to do with the Marlborough property but she would like to be awarded the flat in England. The defendant on his part wanted the Marlborough property to remain in the name of the plaintiff whilst he enjoyed its fruits and for the flat to remain as it is as jointly owned.

At another level he suggested that the two properties be held in trust for the benefit of the children. The proposal for the two properties to be held in a Trust for the benefit of the children was not insisted upon by the defendant in his evidence. Clearly such a position would have been untenable in the light of the plaintiff's objections and a desire for a clean break. If the defendant is desirous of the children benefitting from the properties he is at liberty to donate his share to the children.

It may also be noted that later on in his evidence the defendant conceded that the plaintiff can have the Flat in England with a rider that she should not sell it. Whatever limitation he wanted placed on the flat were a result of his own selfishness. Clearly he has enjoyed rent

free accommodation whilst the plaintiff had to seek rented accommodation for her and the children. After all that he now seeks that plaintiff should not be allowed to do as she pleases with the flat once she is awarded it. It is my view that such limitation is unwelcome. The plaintiff having shouldered a greater burden in fending for the children should surely be entitled to her own property. She should be at liberty to deal with the property as she pleases.

In the circumstances the plaintiff will be awarded the flat whilst defendant is awarded the Marlborough property.

Earlier I alluded to the fact that the defendant in his amended plea of 8 November 12016, acknowledged that the parties' joint account in UK was overdrawn to the tune of GB13 432.38 but, despite this acknowledgement, did not state how the overdraft should be conclusively dealt with. In his earlier plea he had suggested that plaintiff should make good the overdraft except for Gb3 000.00. The defendant's evidence on this overdraft was not sufficient to relieve him of liability. Clearly the defendant had access to the joint account and had handled funds there from in an irresponsible manner. The plaintiff indicated that she had drawn about GB7200.00 from the account to meet the children's needs which needs the defendant had neglected. The defendant did not seriously dispute that the money was used for what should have been part of his contribution to the needs of the children. He equally did not explain what he used the funds he withdrew from that account for. I am of the view that it is only just and equitable that defendant should make good the overdraft. He should thus indemnify the plaintiff against any liability arising from that overdraft.

The other issues will be as per the parties' agreement stated in the pre-trial conference meeting.

In his closing submissions plaintiff's counsel argued that given the belligerent attitude of the defendant and his desire to ensure that plaintiff got nothing whilst he continued to 'live free of charge', the plaintiff has achieved substantial success and is therefore entitled to costs. I am inclined to agree with counsel on this aspect. This is a case whereby had the defendant acted reasonably a protracted trial would not have been necessary. Despite his neglect of his family and virtually leaving plaintiff to fend for the family after separation, the defendant would not see reason in the plaintiff being awarded either of the immovable properties. He in fact had the audacity to seek to continue benefiting from the use of the plaintiff's name on the Marlborough property whilst he stayed in that property rent free. His insatiable desire to continue exploiting the plaintiff whilst denying her the enjoyment of properties she had immensely contributed towards directly and indirectly by fending for the family deserved censure. The defendant will thus bear the costs on the general scale.

Accordingly it is hereby ordered that:-

1. A decree of divorce be and is hereby granted
2. The defendant be and is hereby awarded no. 14 Brechin Drive, Marlborough, Harare as his sole and exclusive property.
3. The plaintiff shall sign all necessary documents to effect transfer of the property from her name into the defendant's name within 30 days of request or such longer time as the parties may agree. The defendant shall bear the costs of such transfer.
4. The defendant shall retain as his sole property the furniture and household contents situate in no.8 Brechin Drive, Marlborough, Harare subject to Plaintiff's entitlement to inspect all the said items and to remove certain small items which are personal or sentimental to her.
5. The plaintiff shall retain as her sole and exclusive property all motor vehicles in her possession
6. The defendant shall retain as his sole and exclusive property all motor vehicles in his possession including a Toyota Surf motor vehicle.
7. Each party shall within 6 months of this order or within such time as the applicable law may allow, transfer to the other their entire shareholding in the other's company in Zimbabwe and resign as director of the other party's company.
8. Each party shall, within 6 months or such period as the applicable law may allow, transfer to the other their entire shareholding in the other party's company in England and each party shall resign as director of the other party's said company.
9. The plaintiff be and is hereby awarded the Flat in England namely No.8 Peterborough Mansions, 69 New Kings Road, Fulham, London , United Kingdom as her sole and exclusive property.
10. The defendant is hereby ordered to sign all documentation that may be necessary in order to have his share in the Flat transferred to the plaintiff within 30 days of such request.
11. The plaintiff shall henceforth be responsible for the mortgage and all other charges associated with the flat.
12. Should the plaintiff opt to sell the Flat, the defendant shall sign all and any documentation that may be necessary in order to have his share in the flat transferred to the Purchaser and the Plaintiff shall settle the mortgage dues from the purchase price received and retain the balance exclusively.

13. In the event that the defendant refuses or fails to sign any of the documentation referred to in clauses 11 and 13 above, the Sheriff shall sign the documentation on his behalf.
14. In the event that the said flat is sold, the furniture and household contents situate therein shall be divided equally by value between the parties.
15. The defendant shall indemnify Plaintiff against all and any liability arising out of the overdraft relating to the parties' joint account held at NatWest Bank in England.
16. The defendant shall pay costs of suit.

*Atherstone & Cook*, plaintiff's legal practitioners
*Thompson Stevenson & Associates*, defendant's legal practitioners